



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/579,941

10/16/2006

Hans Meijer

P/2107-291

4868

2352 7590 05/21/2008
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

EXAMINER

RUSSEL, JEFFREY E

ART UNIT

PAPER NUMBER

1654

MAIL DATE

DELIVERY MODE

05/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Art Unit: 1654

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3, drawn to a delivery peptide.

Group II, claim(s) 4-6, drawn to an expression cassette and a transfer vector.

Group III, claim(s) 7-37, 39, 41, 43-53, 55, 57, 59, 62, and 63, drawn to a peptide-cargo complex, methods of making the peptide-cargo complexes, and methods of administering the peptide-cargo complex.

The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The products of Groups I, II, and III have materially different structures and materially different functions. The delivery peptides of Group I can be used in materially different products and in materially different methods than in peptide-cargo complexes in order to deliver a cargo to a cell. For example, the claimed delivery peptides embrace polyarginine, which can be administered per se as a therapeutic agent, and polyhistidine, which can be used as a purification tag. In addition, the X references cited in the International Search Report are evidence that the claimed inventions lack a corresponding special technical feature and therefor lack unity of invention.

Art Unit: 1654

2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

If Applicants elect the invention of Group I, the species are as follows: The amino acid sequences identified as SEQ ID NOS:1-39 as set forth in claim 3.

The claims are deemed to correspond to the species listed above in the following manner:

Claim 2 is generic to all of the amino acid sequence species identified as SEQ ID NO:1-39. Claims 1 and 3 are generic to the amino acid sequence species identified as SEQ ID NOS:1-4, 6-11, 13-22, 29-32, and 34-38. Note that claims 1 and 3 are not generic to the amino acid sequence species identified as SEQ ID NOS:5, 12, 23-28, 33, and 39. Formula I, which only requires residues B₁, B₂, and B₃ to be present in the delivery peptide (all other residues are optional), thereby requires at least three arginine and/or glutamine and/or histidine residues to be present. The amino acid sequence species identified as SEQ ID NOS: 5, 12, 23-28, 33, and 39 do not comprise a sufficient number of non-lysine residues in order to satisfy formula I's requirement for the residues B₁, B₂, and B₃.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The amino acid sequences are materially different from one another. In addition, the X references cited in the International Search Report are evidence that the claimed inventions lack a corresponding special technical feature and therefore lack unity of invention.

Art Unit: 1654

If Applicants elect the invention of Group III, the species are as follows: (A) The cargo species recited in claims 13-25; and (B) The diseases and conditions recited in claims 37, 39, 41, 53, 55, 57, 59, and 62. Applicants must elect one species selected from (A) and one species selected from (B).

Claims 7-37, 39, 41, 43-53, 55, 57, 59, 62, and 63 are generic to various combinations of the cargo species and diseases and conditions outlined above.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The cargo species have materially different structures and are used to treat materially different diseases or conditions. The diseases and conditions have materially different underlying causes and symptoms, and are treatable by active agents having materially different structures and biochemical actions. In addition, the X references cited in the International Search Report are evidence that the claimed inventions lack a corresponding special technical feature and therefor lack unity of invention.

If Applicant elects the invention either of Group I or Group III, Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

Art Unit: 1654

the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

3. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:00 A.M. to 5:30 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Cecilia Tsang can be reached at (571) 272-0562. The fax number for formal communications to be entered into the record is (571) 273-8300; for informal communications

Art Unit: 1654

such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffrey E. Russel/

Primary Examiner, Art Unit 1654

JRussel
May 21, 2008